STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of D.B.W., R.J.W., JR., and A.L.W., Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

REBECCA WOHLFERT,

Respondent-Appellant,

and

ROBERT WADE,

Respondent.

UNPUBLISHED
May 14, 2009

No. 289077
Clinton Circuit Court
Family Division
LC No. 07-019540-NA

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DEPARTMENT OF HUMAN SERVICES,

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ROBERT WADE,

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No. 289078
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REBECCA WOHLFERT,

Respondent.

Before: K. F. Kelly, P.J., and Cavanagh and Beckering, JJ.

PER CURIAM.

Respondent Rebecca Wohlfert (hereinafter "respondent-mother") and respondent Robert Wade (hereinafter "respondent-father") each appeal as of right from the trial court's order terminating their parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(*i*), (g), (j), and (m). We affirm.

The petitioner has the burden of proving a statutory ground for termination by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). Once a statutory ground for termination is established by clear and convincing evidence, the court shall order termination of parental rights if "termination of parental rights is in the child's best interests." MCL 712A.19b(5). We review the trial court's findings of fact under the clearly erroneous standard. MCR 3.977(J); *In re Trejo, supra* at 356-357. A finding of fact is clearly erroneous when the reviewing court has a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Deference is accorded to the trial court's assessment of the credibility of the witnesses who appear before it. *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991).

Respondent-mother does not challenge the trial court's determination that the statutory grounds for termination were sufficiently established and expressly concedes that § 19b(3)(m)[1] was established by clear and convincing evidence. Although respondent-father argues that the statutory grounds for termination were not sufficiently proven, he does not direct his argument at the elements of the individual statutory grounds that were found to exist. Instead, he argues that petitioner failed to make reasonable efforts to assist in reunification. Respondent-mother makes a similar argument in the context of addressing the children's best interests.

In general, the Department of Human Services is required to make reasonable efforts to rectify the conditions that caused a child's removal from a parent's home by adopting a service plan, MCL 712A.18f(4), and providing necessary services to facilitate the return of the child. See MCL 712A.19a(6)(c); *In re Rood*, 483 Mich 73, 99-100; 763 NW2d 587 (2009); *In re Terry*, 240 Mich App 14, 25-26; 610 NW2d 563 (2000).

We reject respondents' arguments that reasonable efforts at reunification were not made because a play therapist was not provided during visits. The caseworker was willing to provide a

[1] It is undisputed that both respondents previously released their parental rights to other children.

therapist to work with respondents during visits, but wanted to use D.B.W.'s therapist for this purpose because she was familiar with D.B.W. and the children would be more comfortable with her. However, respondents were unwilling to participate with D.B.W.'s therapist serving in this role because they believed she was biased. Thus, the failure to utilize a therapist during visits was not attributable to petitioner's unwillingness to provide one, but rather respondents' refusal to participate with the therapist chosen by petitioner.

Furthermore, a therapist would have only been able to assist in promoting bonding and attachment issues between respondents and the children. The evidence showed that there were more basic obstacles to reunification that respondents failed to overcome. Both respondents had a prior history with Protective Services and had previously released their parental rights to other children after failing to benefit from past services. Throughout this case, respondents were unable to maintain stable employment or live on their own, and they were continually unable to maintain the home of respondent-mother's father, with whom they were living, in a clean and safe condition for children. Although they had recently obtained an apartment, at the time of the termination hearing respondent-father was unemployed and respondent-mother had been employed for only two months, and her income did not provide respondents with the financial independence they required.

Respondent-mother argues that the trial court misconstrued her lack of emotion when the children were initially removed from the home as an indication that there was a lack of a bond or attachment with her children. However, the court did not focus on respondent-mother's emotional state during that incident alone to find that there was a lack of a bond or attachment. The court also relied on testimony from D.B.W.'s therapist about D.B.W.'s lack of attachment and bonding to respondent-mother. Although respondent-mother argues that D.B.W.'s therapist was biased, the credibility and reliability of her testimony was for the trial court to decide. See *In re Newman*, *supra* at 65. Further, other evidence, such as respondents' conduct in locking D.B.W. in his room for long periods of time, also demonstrated the lack of a bond or attachment between respondent-mother and D.B.W. The trial court's findings regarding this issue are not clearly erroneous.

Respondent-mother argues that health problems and her pregnancy affected her ability to successfully complete the terms of her parent-agency agreement. However, respondent-mother also failed to take appropriate action to address these conditions. She did not promptly seek help for her medical problems, to address insurance issues, or to obtain appropriate prenatal care.

Finally, although respondent-mother argues that the trial court failed to give appropriate weight to the many services she participated in, the evidence indicated that she did not benefit from those services. She completed parenting classes, but failed to demonstrate what she had learned from those classes at visits. She was employed, but had been working for only two months and her employment did not allow herself and respondent-father to be financially independent. The apartment respondents were living in was obtained only one month before the termination hearing. The anger management classes that respondent-mother attended were intended primarily for respondent-father.

In sum, neither respondent has demonstrated that the trial court clearly erred in finding that the statutory grounds for termination were established by clear and convincing evidence, or in finding that termination of their parental rights was in the children's best interests.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Mark J. Cavanagh
/s/ Jane M. Beckering